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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,638	01/26/2004	Russell A. Budd	YOR920000326US2	9109

7590 08/08/2006
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

EXAMINER

MENGISTU, AMARE

ART UNIT PAPER NUMBER

2629

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,638

Applicant(s)

BUDD ET AL.

Examiner

Amare Mengistu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>August 14, 2000, NOV. 4, 2002</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakaguchi Tomoyuki** (JP 411295638A).

In regard to claim 1, **Nakaguchi Tomoyuki** (hereinafter **Tomoyuki**) discloses a head mounted virtual image display unit, the unit comprising:

a microdisplay (see, figs. 1-9 (1));

an optical system for directing an image signal for viewing by a user, the image signal being generated in accordance with the microdisplay (figs. 1-9 (3));

an optical system mounting structure for supporting the optical system within the field of view of an eye of the user (figs. 6,8 (14), fig.7 (16));

a housing to substantially contain at least the optical system (figs.1 and 4 (1,4);figs. 6,8 (1,14); fig.7 (1,16));

and a light shield (figs.1-5 (9), the light shield being integrated with the housing and positioned with respect to the optical system such that, in an open position, the image signal is viewed by the user with background light entering the optical system (see, Abstract and Solution). **Tomoyuki** states that "*the image area projected in the*

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concave mirror 3 can be satisfactorily visually confirmed with the background of a dark area in the light shield cover 9", but did not expressly disclose that the light shield is in a closed position, the image signal is viewed by the user with background light at least partially blocked from entering the optical system. However, one skilled in the art would have recognize that **Tomoyuki's** light shield is in a closed position, the image signal is viewed by the user with background light at least partially blocked from entering the optical system the same way as **Tomoyuki's** statement of confirming the dark background area in the light shield cover 9.

As to claim 3, **Tomoyuki** also discloses that the light shield is one of opaque, partially opaque, colored and polarized (see, Solution).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakaguchi Tomoyuki** (JP 411295638A) in view of **Kashiwagi Atsushi** (JP 409164256A).

In regard to claim 2, **Tomoyuki** discloses a light shield (9). Tomoyuki failed to teach that the light shield is slidably integrated in the optical system housing such that the light shield may be slid between the open position and the closed position. **Kashiwagi Atsushi** (hereinafter **Atsushi**) is cited to teach that it is well known for a display device to have an open and close slidable light shield (fig.2 (6), figs.5 and 6 (9), also see, Solution).


Therefore, it would have been obvious to one skill in the art at the time of the invention was made to have been motivated to substitute the slidable light shield of **Atsushi** with the light shield of **Tomoyuki** because this will allow the user to have control of the out side light by opening or closing of the light shield in order to achieve a better image display.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amare Mengistu whose telephone number is (571) 272-7674. The examiner can normally be reached on M-F,M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3639. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Amare Mengistu
Primary Examiner
Art Unit 2629

AM
August 4, 2006